

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

JERICO GROUP LTD, ET AL., )  
 ) 14cv02329  
Plaintiffs, )  
 )  
V. ) United States Courthouse  
 ) Brooklyn, New York  
 )  
MID-TOWN DEVELOPMENT LIMITED ) WEDNESDAY, MARCH 4, 2015  
PARTNERSHIP, ET AL., )  
 )  
Defendants. )  
\_\_\_\_\_ )

TRANSCRIPT OF CIVIL CAUSE FOR STATUS CONFERENCE  
BEFORE THE HONORABLE DORA L. IRIZARRY  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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12 Proceedings recorded by mechanical stenography, transcript  
13 produced by computer-assisted transcript.  
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Proceedings

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1 THE COURT: Please be seated. Good morning.

2 THE CLERK: This is Civil Cause for Conference,  
3 Docket 14CV2329, Jericho Group, et al, versus Mid-Town  
4 Development Limited Partnership, et al.

5 Please state your appearances, starting with  
6 plaintiff.

7 MR. GROSS: Good morning, your Honor. Brad Gross,  
8 attorney for the plaintiff, Jericho Group, LTD.

9 MR. HUBBARD: Good morning, your Honor. I'm Jim  
10 Hubbard of Liddle and Robinson. With me is Caitlin Brown.  
11 And with your permission, we would appear here specially this  
12 morning. We are not counsel of record, but we are here, with  
13 Mr. Gross, in an effort to assist with the issue of the  
14 representation of the plaintiff.

15 THE COURT: Well, are you planning to become  
16 attorney of record?

17 MR. HUBBARD: We are considering it. We have just  
18 been contacted in the last few days. We have had extensive  
19 discussions with Mr. Pfeiffer about that, and we are  
20 discussing retention of our firm to participate in the -- to  
21 substitute Mr. Gross, and it will take us a few days to make  
22 that decision. I'm not prepared to enter an appearance this  
23 morning, but I simply say to your Honor that we are actively  
24 and in good faith considering the representation of the  
25 plaintiff in this case, and wanted to be here and make

Proceedings

4

1 ourselves available, to the extent the Court had questions  
2 about that.

3 THE COURT: All right. I'll make an exception and  
4 permit your appearance here today under those conditions. I  
5 hope that you are prepared to respond to some of the issues  
6 that we are addressing here today.

7 MR. HUBBARD: Thank you very much, your Honor.

8 THE COURT: For the defendants, for Mid-Town  
9 Development Limited Partnership.

10 MR. SHORE: Good morning, your Honor. Jeffrey  
11 Shore. My name is --

12 THE COURT: Sorry. We're having microphone  
13 problems. Sorry about that.

14 MR. BERGER: George Berger --

15 THE COURT: It might be better if you sit.

16 If I can ask all the attorneys, actually, to speak  
17 into the microphones and remain seated.

18 MR. SHORE: Sure, your Honor. My name is Jeffrey  
19 Shore. I'm a party, and I'm counsel at Philip Nizer, which is  
20 also a party. Lead counsel, George Berger, should be on phone  
21 right now.

22 THE COURT: Mr. Berger, good morning. Good morning  
23 Mr. Shore. And I expect that we'll have other parties by  
24 telephone as well.

25 MR. BERGER: Your Honor, I don't know what's going

Proceedings

5

1 on --

2 THE COURT: No, it's not your fault. We're having  
3 technical difficulties on our end. My apologies. I'm going  
4 to ask the parties who are on the telephone, please, when you  
5 speak during the proceedings, to identify yourselves.

6 For Edward Imperatore?

7 MR. IMPERATORE: Hi, your Honor.

8 THE COURT: You're present. Good morning.

9 MR. IMPERATORE: Good morning.

10 THE COURT: And do we have Matthew Jesse Sinkman?

11 MR. SHORE: No, he's not here, your Honor.

12 THE COURT: He's not here.

13 MR. SHORE: He's just an associate of our firm.

14 He's not a party.

15 THE COURT: Okay. And for Maurice Stone.

16 MAURICE STONE: Maurice Stone, your Honor.

17 THE COURT: Good morning.

18 And Edward Ross by telephone.

19 EDWARD ROSS: By telephone, your Honor.

20 THE COURT: Mr. Ross, are you there?

21 EDWARD ROSS: I'm on the telephone, your Honor.

22 THE COURT: Edward Imperatore, you're appearing by  
23 phone. Mr. Imperatore, are you there?

24 MR. IMPERATORE: Yes, I'm on the phone, your Honor.

25 THE COURT: Okay. It might be helpful if you move

Proceedings

6

1 any cell phones or electronic devices away from the phones.  
2 That could cause some interference.

3 George Berger.

4 MR. BERGER: Yes, your Honor. I'm here. I'm both a  
5 party and lead counsel.

6 THE COURT: I really apologize. I'm so sorry about  
7 that.

8 And Jeffrey Shore.

9 MR. SHORE: Yes, that's me.

10 THE COURT: I'm sorry. We have you here twice. And  
11 you're here for -- on behalf of Philip Nizer.

12 PERRY GALLER: Perry Galler, administrative partner.

13 THE COURT: And we also have on behalf of  
14 defendants, Sherman, Geramia and Jones Day.

15 MR. FEDER: Yes, your Honor. Meir Feder, for those  
16 defendants, with Joshua Stillman.

17 THE COURT: Okay. And I see Mr. Geramia is here.  
18 Good morning.

19 MR. FEDER: And Mr. Sherman should be on the  
20 telephone.

21 THE COURT: Mr. Sherman, are you with us on the  
22 telephone?

23 FREDERICK SHERMAN: Yes, I am, your Honor.

24 THE COURT: Okay. Thank you.

25 For Lisa Solomon.

Proceedings

7

1 MS. SOLOMON: Yes, your Honor.

2 THE COURT: Okay. Good morning.

3 MS. SOLOMON: Good morning.

4 THE COURT: And Robert Goebel.

5 ROBERT GOEBEL: Good morning, your Honor.

6 THE COURT: All right. I called this conference for  
7 a number of reasons. It was precipitated by plaintiffs'  
8 request through Jericho Group Limited's representative, Samuel  
9 Pfeiffer to --

10 Are you here, sir?

11 SAMUEL PFEIFFER: Yes.

12 THE COURT: You can sit here with your counsel.

13 SAMUEL PFEIFFER: Thank you. Thank you,  
14 your Honor.

15 THE COURT: Sure. There was a request made to  
16 relieve plaintiffs' counsel, who still -- at this point in  
17 time, Mr. Gross, and to allow plaintiff 30 days to obtain new  
18 counsel, to respond to defendants -- to the four motions to  
19 dismiss that have been filed by the defendants. Now,  
20 obviously, plaintiff, being a corporation under the law, must  
21 have counsel in order to litigate this case, but I have a  
22 number of concerns here.

23 Some of the concerns were raised by the defendants,  
24 in that this is the fifth time now that the plaintiff has  
25 brought suit regarding the same failed real estate transaction

Proceedings

8

1 and the undue delay that bringing in new counsel may cause to  
2 move this case forward. Now, I don't understand what the  
3 reason is for plaintiffs seeking new counsel. And I don't  
4 know, Mr. Pfeiffer, if you want to address that since you are  
5 here as a representative of the corporation. Can we pass a  
6 microphone over to Mr. Pfeiffer. Make sure the green light is  
7 on. You have to tap the base to make sure the light is on.  
8 Stand or sit, please, and just speak into the microphone.

9 SAMUEL PFEIFFER: Thank you. I sent your Honor a  
10 letter dated February 10th.

11 THE COURT: Yes, I read the letter.

12 SAMUEL PFEIFFER: And I didn't have the lawyers.  
13 Looks like the condition of what it is, or who it went to,  
14 somehow could not prepare the papers, and all this dragging  
15 around and of this long time should have been much earlier.

16 THE COURT: He's here now.

17 Mr. Gross, you filed the Complaint, and you filed  
18 the Amended Complaint on behalf of your client, which will  
19 bring me to something else later on. And you know this case,  
20 so I don't see what benefit there is to bringing in new  
21 counsel, at this point.

22 MR. GROSS: Your Honor, it was somewhat well known  
23 from August until --

24 THE COURT: I don't think your microphone is on.  
25 Touch the base. There you go.



Proceedings

9

1 MR. GROSS: Unfortunately, I have suffered some  
2 medical issues, and it's been an ongoing situation.

3 THE COURT: How are you feeling now?

4 MR. GROSS: Right now I'm shaking, quite frankly.  
5 I'm more than welcoming the substitution. And my familiarity  
6 with the case might facilitate and be able to assist a new  
7 firm. Mr. Pfeiffer has certainly taken the position that he  
8 feels that a substitution would be an appropriate thing to do,  
9 at this time.

10 THE COURT: Well, obviously, things happen in life,  
11 right. We are all human beings, and you can't predict when  
12 things are going to effect your health and how that will  
13 effect your ability to function in your personal life, as well  
14 as in your working life. If you have a job, you would not be  
15 the first attorney to be in that situation, and I think it  
16 takes a great deal of personal strength to recognize that you  
17 might need some help, in that regard. So in that regard,  
18 since you feel personally that you -- the substitution would  
19 be appropriate, given your personal situation, then I'm not  
20 going to oppose the substitution of counsel.

21 That being said, however, having reviewed the  
22 history of this case, the Complaint, and the various charges  
23 complaints that have been made here, and the history of this  
24 case as it meandered through the state court system, the  
25 history is very -- is described, at least for the first time

Proceedings

10

1 in the First Department's decision, in *Jericho Group Limited*  
2 *versus Mid-Town Development, LP*, at 32 A.D.3d 294, a decision  
3 in 2006, wherein the Appellate Division granted the  
4 defendants' appeal and reversed a decision by the Supreme  
5 Court judge, which denied the defendants' motion to dismiss  
6 the Complaint, in the first instance.

7           There were other decisions that were subsequently  
8 rendered by the appellate decision and need to appeal to the  
9 Court of Appeals has been denied. And as far as I am  
10 concerned, based on my review, it certainly appears that the  
11 present Amended Complaint makes exactly the same arguments  
12 that were adjudicated in the first and the second actions.  
13 And the second action was addressed by the Appellate Division  
14 in 42 A.D.3d, 463 in 2008. That's a First Department decision  
15 in *Jericho Group Limited versus Mid-Town Development, LP*. And  
16 the First Department held there that the purchaser, that be  
17 being Jericho Group Limited, had no cause of action for fraud  
18 against the defendant.

19           And, finally, in the third decision by the First  
20 Department, in 2009, 76 A.D.3d, 431, where -- this is the  
21 second action that was brought -- relates to the second action  
22 brought in state Supreme Court brought by Jericho. The  
23 Appellate Division held that res judicata barred the action,  
24 because the same arguments were raised in the second cause of  
25 action.

Proceedings

11

1           Now, I would like to hear from plaintiff why  
2 the Court should not sua sponte dismiss plaintiffs' claims 1  
3 through 15, 17, and 19 under the doctrine of res judicata.  
4 And, frankly, as to the remaining claims, 16, 18, and 20,  
5 those relate to conversion -- 16 is conversion by Defendants  
6 Szegda -- hope I'm pronounced that correctly, S-z-e-g-d-a --  
7 and Baystone. Eighteen is intentional infliction of emotional  
8 distress by defendants Berger, Shore, Philip Nizer and  
9 Mid-Town.

10           And 20 relates to a Section 1983 action against the  
11 attorney -- defendants or alleged violation of civil rights.  
12 Why I shouldn't dismiss those claims for failure to state a  
13 claim upon which relief can be granted? Because, quite  
14 frankly, reviewing the papers in this case, they do appear to  
15 be likely to be dismissed.

16           Mr. Gross, perhaps you're in the best situation to  
17 address this.

18           MR. GROSS: I may be in the best situation, but I'm  
19 not entirely prepared to do that today. I didn't anticipate  
20 having oral argument on the motions to dismiss. We have  
21 arguments, and reasons, and justification for bringing the  
22 claims that we brought. We believe them to be meritorious and  
23 ones which would sustain --

24           THE COURT: How can you stand here and tell me that  
25 you think they're meritorious, when already the state court

Proceedings

12

1 has decided that bringing these same actions over again in a  
2 separate state court proceeding was res judicata -- was  
3 dismissible on res judicata grounds?

4 MR. GROSS: We don't believe the claims set forth in  
5 the existing Complaint are the same as the claims that were  
6 brought in the prior actions. In fact, the facts giving rise  
7 to these claims weren't even known to the plaintiff until  
8 2013, and that's what the basis of the new case is. We don't  
9 believe that it's the same claims in the res judicata issues,  
10 and we were prepared to deal with that in full brief to  
11 address what was raised already in these motions to dismiss,  
12 which included the res judicata issues. And we believe that  
13 we will be able to sustain those claims, because we don't  
14 believe they're the same as the ones from the state court  
15 action.

16 THE COURT: They're entirely the same as what was in  
17 the state court action --

18 MR. GROSS: Your Honor, the claim --

19 THE COURT: -- as has been described in the  
20 defendants' motions.

21 MR. GROSS: Claims that were brought in this case --

22 THE COURT: Quite frankly, I am inclined under Rule  
23 11 to impose sanctions against plaintiff and plaintiffs'  
24 counsel for bringing an utterly frivolous action that is  
25 clearly intended just to be vexatious and to harass

Proceedings

13

1 defendants.

2 MR. GROSS: Your Honor, we brought the case in good  
3 faith, and we brought the claims in good faith. And I'm not  
4 in a position and prepared to defend entirely the claims, at  
5 this juncture --

6 THE COURT: Well, I have to tell you that the tone  
7 of the letters that have been filed by Mr. Pfeiffer in this  
8 case show anything other than good faith, and what they show  
9 is a personal vendetta that he has. He has mentioned all  
10 kinds of things that are irrelevant to this case, about he and  
11 his family members having been victims of crimes, of violent  
12 crimes that have nothing to do with any the defendants or the  
13 parties who are here, both by phone and in person. What's  
14 that intended to do, I have no idea. If, in fact, it is true  
15 that the plaintiffs have been victims of crime, I am sorry.  
16 I've been a victim of a crime, too. It's not a good feeling,  
17 to say the least. But it's irrelevant. We're talking about a  
18 contract dispute. It has nothing to do with any of that.

19 Moreover, the kinds of allegations that have been  
20 made against the attorneys here, and the parties here, the  
21 defendants here, the kind of nastiness that has been  
22 exhibited, shows nothing but a personal vendetta against the  
23 defendants. Moreover, it's not the kind of thing that,  
24 frankly, should have been filed in federal court, in terms of  
25 those letters, or in any court. It's unprofessional, and it

Proceedings

14

1 doesn't advance the case in any way. It doesn't illuminate  
2 any of the legal arguments that the Court has to consider.  
3 Explain to me how a corporation suffers intentional emotional  
4 distress, because I have not found a case that says that.  
5 It's a corporation.

6 MR. GROSS: At the time --

7 THE COURT: It can suffer money loss.

8 MR. GROSS: At the time it was filed, your Honor,  
9 Anna Pfeiffer was still a party in the action, as an  
10 individual doing business as Jericho. She has since withdrawn  
11 her claims. We're willing to look very carefully and  
12 closely --

13 THE COURT: Are you telling me, then, that that  
14 claim is withdrawn?

15 MR. GROSS: I'd have to consult with my client  
16 before I make that representation, but I can make a  
17 recommendation.

18 THE COURT: If Ms. Pfeiffer is no longer part of the  
19 case, then how does -- the corporation, which is the remaining  
20 plaintiff, correct?

21 MR. GROSS: Yes, your Honor.

22 THE COURT: Then how does the corporation suffer  
23 intentional emotional distress? And why is the plaintiff  
24 wasting the Court's time and the defendants' time with  
25 addressing a, frankly, frivolous claim?

Proceedings

15

1 MR. GROSS: Again, your Honor, I can consult with my  
2 client and make a recommendation, but I'm not in the position  
3 to do that. I'm on the verge of being substituted out of the  
4 case. I just wanted to, again, ask the Court if we can have  
5 the opportunity with counsel, if he does, in fact, come in, to  
6 spend some time studying each of these issues, and take under  
7 advisement what you're mentioning here today and try to move  
8 things in the most appropriate fashion going forward.

9 THE COURT: Let me hear from defendants. Anyone  
10 want to go first?

11 MR. SHORE: Mr. Berger is the lead counsel.

12 THE COURT: I'm sorry. Okay.

13 On the phone, you want to address this, and can I  
14 have your name, please.

15 MR. BERGER: Yes. George Berger.

16 THE COURT: Is this Mr. Berger?

17 MR. BERGER: Yes.

18 THE COURT: Maybe you're a little too close to  
19 whatever instrument you're on.

20 MR. BERGER: I'm on my house phone, your Honor. I'm  
21 not on a speaker phone.

22 THE COURT: That sounds good. Wherever you are  
23 right now, let's try to work with this.

24 MR. BERGER: First of all, thank you for letting me  
25 appear by telephone. I appreciate the consideration. I'm not

Proceedings

16

1 sure I'll be able to get anything out with this feedback, but  
2 I'll try.

3 THE COURT: Do your best.

4 MR. BERGER: I appreciate your Honor's observation.  
5 As your Honor knows, we're very serious about our motion to  
6 dismiss. We are also very concerned. The fact that this  
7 litigation, as of next month, will be pending for a year, in  
8 which notice of pendency had been filed against the party.  
9 And your Honor knows what that means, in terms of market  
10 ability. And we're very anxious to get the stay that  
11 your Honor imposed recently lifted so that Magistrate Judge  
12 Scanlon can go ahead with the papers that are before her on  
13 the motion to cancel the move to strike of pendency. It's  
14 very important to our clients.

15 I think your Honor -- the merits of the Amended  
16 Complaint, -- and there's nothing I can add to that, because  
17 we're in complete accord with your views. I'm not going to  
18 take the Court's time to talk about my personal resentment  
19 being named a defendant here and the charges that have been  
20 filed against me, which are ridiculous and in bad faith, in  
21 imposing a compliment (sic). So at that point, I would just  
22 end my remarks and urge your Honor to proceed in the direction  
23 that you're going.

24 Now, as far as the substitution of counsel is  
25 concerned, I didn't hear anybody say they were coming in as



Proceedings

17

1 counsel. I only heard somebody say that he was considering  
2 it. And considering it, to me, is not a reason to delay  
3 filing the opposing briefs. They were due on February 16th.  
4 We already managed to get an extra two weeks of time, so we're  
5 over seven weeks now in responding to the motions to dismiss.  
6 And they have to go forward, or your Honor sua sponte needs to  
7 act, as you indicated you would, because we need to move on  
8 with our business. Thank you very much.

9 THE COURT: Thank you, Mr. Berger.

10 Anyone else on the phone wish to be heard?

11 MR. BERGER: People on the phone are just parties.

12 THE COURT: Okay. Thank you.

13 Any counsel who are here present also wish to be  
14 heard?

15 Ms. Solomon, perhaps, do you wish to be heard?

16 MS. SOLOMON: Yes, your Honor.

17 THE COURT: If you could sit and speak into the  
18 microphone, so this way the folks on the phone can hear as  
19 well. Make sure that green light is on.

20 MS. SOLOMON: It looks like it's on.

21 THE COURT: Keep your voice up.

22 MS. SOLOMON: I will, your Honor. Thank you. I  
23 would like to be heard, your Honor, because I have been  
24 brought into this situation, along with my husband Robert  
25 Goebel. Robert Goebel, for approximately one-and-a-half years

Proceedings

18

1 represented and is counsel for Mr. Pfeiffer, and his  
2 representation was subsequently terminated many years ago. I  
3 have had no involvement whatsoever with any of the people in  
4 this case, have never represented Mr. Pfeiffer, saw him for  
5 the first time in my life today.

6 The only involvement that I had in the many prior  
7 litigations was that I sat in one deposition to assist my  
8 husband more than ten years ago, but yet now for the last  
9 two-and-a-half years, I find myself drawn into three different  
10 actions that are started and stopped, and started and stopped,  
11 five different complaints. And I have made repeated requests  
12 that I be removed from the action, because there is -- from  
13 the multiple actions, because there has not been a single  
14 specific allegation of any wrongful conduct being made by me.

15 Not only have I been sued, but Mr. Pfeiffer has  
16 brought charges against the Ethics Committee, against me, and  
17 I find this to be a horrendous and horrifying situation. In  
18 my 25 years of practice, I have never had a Complaint filed  
19 against me by anyone, led alone somebody I never met in my  
20 entire life and that I never represented. I never made a  
21 single appearance in any court. And, as I stated, I have no  
22 involvement in this, other than I am married to one of the  
23 defendants, as to which Mr. Pfeiffer has no valid claim  
24 either.

25 The claims are frivolous. They're wrongful. And

Proceedings

19

1 it's an abuse of the legal system, what it is occurring here,  
2 and I very much appreciate your Honor's observation. And I  
3 think it has to come to a stop, and it must come to a stop. I  
4 don't know that your Honor has yet had an opportunity to view  
5 our motions to dismiss, due to the bundle rule, but I have as  
6 well filed a motion for sanctions against Mr. Pfeiffer and his  
7 counsel, due to their refusal to remove me from this case.

8 And the addition of my husband as a defendant does  
9 not change anything, that is due to the res judicata nature of  
10 what has happened here and in the prior proceedings; they're  
11 all the same claims. He's trying to mix it up, but there is  
12 nothing new here. Thank you, your Honor.

13 THE COURT: Any of the other counsel wish to be  
14 heard?

15 Jones Day?

16 MR. FEDER: Your Honor, I have nothing to add to  
17 what's been said. We obviously agree with your  
18 characterization of the Complaint, but we won't embellish on  
19 that. Thank you.

20 THE COURT: Why shouldn't -- if Ms. Solomon -- never  
21 mind the situation with the husband, who previously  
22 represented the plaintiff. But at least with respect to  
23 Ms. Solomon, she is not named in any of the claims. Why  
24 shouldn't I just dismiss her outright from this case right  
25 now? To the extent that she wants to assist her husband in

Proceedings

20

1 continuing to litigate this matter, that's up to her and to  
2 her husband. But in terms of continuing on as a defendant in  
3 this case, again, frankly, this just goes to a showing of bad  
4 faith on the part of plaintiff here, just this sort of let's  
5 just throw out this wide net, and anyone who even came close  
6 to the defendants is going to be sucked into this litigation.  
7 Why shouldn't I just dismiss it outright as to Ms. Solomon?

8 MR. GROSS: Your Honor, I was confused. Ms. Solomon  
9 said two things just now; she had never represented him, but  
10 she did appear at a deposition. I have a transcript where she  
11 represented herself as the attorney for the plaintiffs, at the  
12 time. One of the issues that Mr. Goebel and Ms. Solomon are  
13 connected with is the fact that simultaneously at the time  
14 Mr. Goebel took Mr. Pfeiffer's case, in the first instance, he  
15 was representing one of the target defendants at that same  
16 time. And the allegations in this Complaint, which make it  
17 different from the state court allegations, is that there was  
18 a conspiracy and a bit of collusion going on among these  
19 attorneys.

20 Mr. Goebel, it's alleged, my client, is fairly  
21 convinced, undertook certain acts to protect these other  
22 defendants at his expense and the expense of the contract,  
23 giving rise to those decisions that you just made reference  
24 to. That's the theory of this case. It's not a straight  
25 contract claim that was brought in a state court action. The

Proceedings

21

1 theory in this case is far different from that, and it goes  
2 beyond that, in a manner in which these actions took place  
3 giving rise to those decisions.

4 We've alleged that those decisions are actually the  
5 product of the wrongful conduct. We have documents now that  
6 reflect that testimony that was given in affidavits submitted  
7 in the state court action are false; they're not true. That's  
8 the nature of this pending action, which is why it's different  
9 from the state court claim and why we believe it will be  
10 sustained. But, again, I apologize to your Honor. I wasn't  
11 prepared to make oral argument in total on the motions to  
12 dismiss.

13 THE COURT: But you've had copies of the defendants'  
14 motions now for quite some time. I forget what date the  
15 defendants --

16 MR. BERGER: January 9th, your Honor.

17 THE COURT: Thank you. So it's been approximately  
18 two months that they've been in your possession. And,  
19 frankly, I don't know, maybe I'm old fashioned, but the way  
20 that I got trained, when you got called into court, you better  
21 know every aspect of your case and be prepared to answer any  
22 question the judge may throw at you. I don't find that to be  
23 a sufficient excuse.

24 Well, it seems to me that under the circumstances of  
25 this case, it is appropriate for me to exercise my authority

Proceedings

22

1 and my jurisdiction to dismiss sua sponte plaintiffs' claims 1  
2 through 15, 17 and 19, under the doctrine of res judicata.  
3 And I do want to read the following into the record, which  
4 will constitute the opinion of the Court, and the parties are  
5 free to order a copy of the transcript as a copy of the  
6 Court's opinion.

7 A little background information I think is relevant  
8 here. This is the fifth lawsuit that was filed by plaintiff,  
9 attempting to reinstate a real estate contract. It cancelled  
10 over a decade ago. The history of the dispute is most clearly  
11 described in *Jericho Group Limited versus Mid-Town Development*  
12 at 32 A.D.2d, 294, First Department, 2006, which I'll call  
13 Jericho I.

14 In short, on June 18th, 2002, plaintiff and  
15 defendant Mid-Town Development, LP, or Mid-Town, entered into  
16 a contract, which I'll call the contract, for plaintiff to  
17 purchase two undeveloped properties in Manhattan for  
18 \$28 million, with a deposit of \$250,000. The contract  
19 provided that prior to closing, there would be a 75-day study  
20 period, and that during the study period, Mid-Town would  
21 provide plaintiff with any documents related to the condition  
22 of the property that plaintiff reasonably requested.

23 After unsuccessfully attempting to negotiate an  
24 extension of the study period, from September 2002, to a later  
25 date, and about a week before the expiration of the study

Proceedings

23

1 period, the parties to the contract discussed an alleged oil  
2 spill that had occurred at or near the property, as well as  
3 exhibits to a development agreement between Mid-Town and  
4 Amtrak. The day after the study period expired, plaintiffs  
5 sent a letter to Mid-Town stating that plaintiff wanted its  
6 \$250,000 down payment returned, in accordance with the  
7 contract, unless Mid-Town extended the study period or  
8 indemnified plaintiff for any cleanup of the alleged oil  
9 spill. And that's described in the Jericho I opinion, at  
10 pages 295 to 96.

11 On September 12th, 2002, after Mid-Town requested an  
12 express statement as to whether plaintiff was cancelling the  
13 contract, plaintiff provided, quote unquote, "confirmation"  
14 that the September 3, 2002 letter was intended, quote,  
15 "intended as the exercise of its right under the contract, to  
16 cancel said contract," end of quote. And Mid-Town returned  
17 the down payment on September 13th, 2002. And that's in the  
18 First Department's opinion at page 297. Obviously, I'm  
19 summarizing the details here, but they are spelled out in  
20 greater detail in the Appellate Division's opinion.

21 Plaintiffs' first action, which was filed in  
22 New York State Supreme Court, in November 2004, alleged that  
23 Mid-Town breached the contract, failed to return the down  
24 payment and defrauded plaintiff by failing to disclose  
25 information about the property relating to an oil spill and

Proceedings

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1 easements held by Amtrak. The Appellate Division First  
2 Department rejected these claims twice, again in *Jericho 1*, 32  
3 A.D.3d, 294, at 298 through 299, *Jericho Group Limited versus*  
4 *Mid-Town Development, LP*, 47 A.D.3d, 463, First Department.

5 In 2008, leave to appeal to the Court of Appeals was  
6 denied at 11 N.Y.3d 801 and 2008. That is the *Jericho II*  
7 action. And plaintiff, in this *Jericho II* opinion, from the  
8 Appellate Division, and plaintiff initiated a second action  
9 against Mid-Town and attorneys, alleging that the first state  
10 court judgment against it had been procured by fraud. The  
11 trial court dismissed that lawsuit as well, and held that  
12 plaintiffs' claims were barred under the doctrines of  
13 res judicata and collateral estoppel.

14 The Appellate Division unanimously affirmed *Jericho*  
15 *Group Limited versus Mid-Town Development, LP*, 67 A.D.3d, 431,  
16 First Department, 2009. Leave to appeal to the Court of  
17 Appeals was denied at 14 N.Y.3d 712 in 2010. That's the third  
18 *Jericho* opinion.

19 Since losing the second action, plaintiff has  
20 initiated two more state court actions against Mid-Town and  
21 various other defendants, neither of which it has litigated to  
22 completion. The suit before this Court was filed by plaintiff  
23 on April 10th of 2014. Defendants have moved to dismiss the  
24 action, and plaintiff filed an amended -- I'm sorry --  
25 before -- withdrawn. Defendants moved to dismiss the first



Proceedings

25

1 Complaint, just to be clear. Plaintiff then filed an Amended  
2 Complaint, on November 4th, 2014. Defendants again moved to  
3 dismiss. Plaintiff now has requested a new attorney and time  
4 to respond to the motions to dismiss.

5 The present Amended Complaint makes -- which I'll  
6 refer to as the Complaint -- makes the same arguments that  
7 were adjudicated in the first and second actions; namely that  
8 plaintiff never cancelled a contract, Mid-Town never returned  
9 plaintiffs' \$250,000 down payment, and that Mid-Town  
10 fraudulently obtained the state court judgments by  
11 misrepresenting the facts to the state courts.

12 However, this final action, the one before  
13 the Court, also alleges that the fraud committed on the state  
14 courts was part of an elaborate RICO scheme involving  
15 Mid-Town, Mid-Town's representatives, defendants Edward  
16 Imperatore, Maurice Stone, Edward Ross, and Arthur Imperatore;  
17 and lawyers in their individual capacities, defendants George  
18 Berger, Jeffrey Shore, Philip Nizer, LLP, Frederick Sherman,  
19 Todd Geramia, and Jones Day; and plaintiffs' lawyers, in their  
20 original contract negotiation, Defendant Szegda, and in the  
21 second action Defendant Goebel, and his wife Lisa Solomon.

22 Specifically, plaintiff argues that Defendant Goebel  
23 failed to raise plaintiffs' winning arguments before state  
24 court, and then threatened and extorted plaintiff, as part of  
25 the RICO scheme. That's in the Complaint, in paragraphs 444

1 to 46, 486 to 96, and, also, in paragraphs 515 to 46.

2 Plaintiff also alleges that it has obtained new evidence that  
3 the defendants previously withheld from plaintiff and the  
4 state courts, in the form of an e-mail, requesting information  
5 from Mid-Town about the oil spill, on August 21st, 2002.

6 That's in the Complaint, in paragraphs 497 to 514. The state  
7 courts had determined that plaintiff had requested that  
8 information, on August 30th of 2002. See Jericho I at 296.

9 Next, plaintiff claims that Defendant Szegda was  
10 never authorized to cancel the contract and that Mid-Town knew  
11 this. That's in the Complaint, in paragraphs 622 to 633.

12 Lastly, plaintiff examines all of defendants' most  
13 recent motions to dismiss, and claims defendants admitted they  
14 defrauded the state courts. That's in the Complaint, in  
15 paragraphs 562 to 669.

16 The Complaint pleads 20 causes of action, including  
17 fraud on the plaintiffs and courts, violations of RICO, breach  
18 of contract, tortious interference with a contract. Those are  
19 claims 115 and 17. Conversion, which is claim 16; intentional  
20 infliction of emotional distress, claim 18; and violations of  
21 New York Judiciary Law, section 487, claim 19; and plaintiffs'  
22 civil rights under the Constitution, the § 1983 action, claim  
23 20. That's in the Complaint, in paragraph 670 to 867.

24 Plaintiff seeks, among other things, declarations  
25 that the contract remains in effect, and that defendants

Proceedings

27

1 defrauded plaintiff and the courts; specific performance of  
2 the contract, and damages of at least \$200 million. Plaintiff  
3 also makes allegations against Defendant Szegda, defendant  
4 based on equities inc, about an unrelated incident.

5           Claims 1 through 15, 17, and 19, are barred under  
6 the doctrine of res judicata. Quote, "To determine the effect  
7 of a state court judgment, federal courts are required to  
8 apply the perclusion law of the rendering state," end of  
9 quote. *Conopco, C-o-n-o-p-c-o, Inc. versus Roll*  
10 *International*, 231 F.3d 82 at 87, 2nd Circuit 2000. Under  
11 New York Law, a court may sua sponte dismiss a Complaint under  
12 the doctrine of res judicata in appropriate circumstances.  
13 See, for example, *390 West End Avenue Associates versus*  
14 *Youngstein*, 22 A.D.2d 292. And that's First Department 1995.

15           In that case, the Appellate Division upheld the  
16 trial court's dismissal of a Complaint, where it had knowledge  
17 of the previous -- where the plaintiff had knowledge of the  
18 previous judgment.

19           Quote, "New York courts have adopted a transactional  
20 approach to res judicata, so that a final decision on the  
21 merits on one action bars all subsequent claims arising out of  
22 the same transaction or series of transactions, even if the  
23 claims are based on different legal theories, or the party is  
24 seeking a different remedy," end of quote. *Resource Northeast*  
25 *of Long Island, Inc. versus Town of Babylon*, 28 F. Supp.2d 786

1 at 791, Eastern District of New York, 1998. Citations are  
2 omitted. See also *Giannone versus York Tape & Label, Inc.*,  
3 548 F.3d 191 at 194, 2nd Circuit 2008, and *Smith versus*  
4 *Russell Sage College*, 54 N.Y.2d 185, 1981.

5 This doctrine applies both to claims asserted and  
6 claims that could have been asserted in the prior action, so  
7 long as the party to be precluded had a full and fair  
8 opportunity to litigate those claims. *Schuykill*  
9 *S-c-h-u-y-k-i-l-l*, *Fuel Corp. versus B. & C. Neiberg Corp.*,  
10 *et al.*, 250 N.Y. 304, at 306 to 307, 1929.

11 Quote, "A judgment in one section is conclusive in a  
12 later one not only as to any matters actually litigated  
13 therein, but also as to any that might have been so litigated,  
14 when the issues -- when the two causes of action have such a  
15 measure of identity that a different judgment in the second  
16 would destroy or impair rights or interests established by the  
17 first," end of quote. See also *Santiago, et al. versus*  
18 *New York City Board of Health, et al.*, 8 A.D.3d 179, at 180 to  
19 81, First Department, 2004.

20 Moreover, the doctrine of res judicata applies not  
21 only to parties to the prior action but to those in privity with  
22 those parties as well, including agents of the party. See  
23 *McDonald versus Lengel*, 2 A.D.3d 1182, at 1183 and 84, Third  
24 Department, 2014, in *Israel versus Wood Dolson Co.*, 1 N.Y.2d  
25 116, at 119, 1956. Plaintiffs also cannot avoid dismissal on

Proceedings

29

1 res judicata grounds by arguing their claims are based on  
2 newly discovered evidence. See, for example, *Statter versus*  
3 *Statter*, 2 N.Y.2d 668, at 674, 1957.

4 Quote "It is commonly held that the mere discovery  
5 of fresh evidence is no answer to the defense of res judicata,  
6 when raised in a subsequent separate cause of action," end of  
7 quote.

8 All of plaintiffs' claims have been litigated to  
9 conclusion not once but twice in state court. Plaintiff  
10 already has tried to allege that Mid-Town defendants committed  
11 fraud on the court, in both their first and second state court  
12 actions, including specifically alleging a violation of  
13 New York State Judiciary Law Section 487, which is claim 19 of  
14 the Amended Complaint here. To the extent that plaintiff now  
15 alleges that the fraud involved Mid-Town's attorneys and  
16 plaintiffs attorneys, those claims are also barred under  
17 res judicata, as they arise out of the same transactions that  
18 were litigated in the first two cases.

19 Plaintiff had a full and fair opportunity to  
20 litigate those claims in the first two actions, and the claims  
21 involve parties that were in privity with the original parties  
22 or were agents of the original parties. Furthermore, the,  
23 quote unquote, "new evidence" that plaintiff relies on, in  
24 addition to being irrelevant to the court's application to the  
25 doctrine of res judicata, is not evidence that would have

Proceedings

30

1 effected the previous court's decisions. Plaintiffs also  
2 tried to argue it had newly discovered evidence in the first  
3 action, when it moved to vacate the judgment, but the  
4 Appellate Division denied that motion.

5           Additionally, plaintiffs' claims also may be barred  
6 under the *Rooker-Feldman* doctrine. The *Rooker-Feldman*  
7 doctrine states that district courts have no jurisdiction to  
8 adjudicate, quote, "cases brought by state court losers  
9 complaining of injuries caused by state court judgments  
10 rendered before the district court proceedings commenced, in  
11 inviting district court review and rejection of those  
12 judgments," end of quote. See *Exxon Mobile Corp. versus Saudi*  
13 *Basic Indus. Corp.*, 544 U.S. 280, at 284, 2005. The 2nd  
14 Circuit parsed that statement down and determined that  
15 Rooker-Feldman applies when four conditions are met:

16           First, the federal court -- and I'm quoting from the  
17 decision in *Hoblock versus Albany County Board of Elections*,  
18 422 F.3d 77, at 85, 2nd Circuit, 2005. Quoting from *Exxon*  
19 *Mobile Corp.*, 544 U.S., at 284. And I'm omitting footnote, in  
20 reference to the footnote. First, a federal court plaintiff  
21 must have lost in state court. Second, the plaintiff must  
22 complain of injuries caused by state court judgment. Third,  
23 the plaintiff must invite district court review and rejection  
24 of that judgment. Four, the state court judgment must have  
25 been rendered before the district court proceedings could

Proceedings

31

1 commence; i.e., Rooker-Feldman has no application to federal  
2 court suits proceeding in parallel with ongoing state court  
3 litigation.

4           Whereas, in the present case, the first and fourth  
5 procedural requirements have been met, the district court must  
6 turn to the second and third substantive requirements and  
7 analyze whether they are met. See *McKithen versus Brown*, 481  
8 F.3d 89, at 97, 2nd Circuit, 2007.

9           The 2nd Circuit also set forth the following rule to  
10 guide the court's inquiry as to whether the second requirement  
11 is met. Quote "A federal suit complains of an injury from the  
12 state court judgment even if it appears to complain only of  
13 third-party's actions. When the third-party's actions are  
14 produced by a state court judgment and not simply ratified,  
15 acquiesced or left unpunished by it. That's *Hoblock*, 422  
16 F.3d, at 88.

17           In the present case, the third requirement is met as  
18 plaintiff is inviting this Court to review and reject the  
19 state court judgments. Whether the second requirement is met  
20 is a little less clear. However, there is an argument that  
21 plaintiff is complaining of injuries caused by the state court  
22 judgment's, as plaintiff states as much in his Complaint. At  
23 the same time, plaintiff argues that defendants' fraud causes  
24 state court decisions, and, therefore, the Court could  
25 determine, and, therefore, the Court could construe that fraud

Proceedings

32

1 on the card (sic) argument as already having been raised in  
2 the state court and rejected; and so, in effect, plaintiff is  
3 asking this Court to reverse a state court decision on the  
4 very same issue.

5 Plaintiffs' claims of -- against defendant Szegda  
6 regarding the Baystone case and intentional infliction of  
7 emotional distress, and for violations of plaintiffs' civil  
8 rights, are also likely to be dismissed for failure to state a  
9 claim upon which relief can be granted.

10 I've already given notice to the defendants in that  
11 regard. I see no reason why if the only plaintiff that  
12 remains here is the corporate -- I'm sorry. Did I say  
13 plaintiff? I hope I didn't say defendant. Is the only  
14 plaintiff that remains here is the corporate defendant, why I  
15 shouldn't also dismiss claim 18? Because a company cannot be  
16 a victim of intentional infliction of emotional distress. And  
17 I haven't heard anything, other than counsel wants to consult  
18 with plaintiff.

19 There's only a company plaintiff here, and so,  
20 therefore, Count 18 is dismissed, for failure to state a claim  
21 under 12(b)(6). That leaves, then, claims 16 and 20. In that  
22 regard, since the motions to dismiss now have been  
23 significantly streamlined, I see no reason why plaintiff could  
24 not have a response to the motions to dismiss, insofar as they  
25 relate to those two remains claims, and I suppose a response



Proceedings

33

1 to the motion for sanctions that have also been included, and  
2 why that can't be done in short order?

3 Plaintiff has until the end of this week to decide  
4 whether or not it's going to continue being represented by  
5 Mr. Gross or whether new counsel is coming in. And, frankly,  
6 if I do not get a response by this Friday -- let me put it  
7 this way, by this Friday I must receive some notification by  
8 plaintiff that it has retained counsel. Whether it's  
9 Mr. Gross that continues on with the case, or whether it's new  
10 counsel that comes into the case, I need to know by this  
11 Friday. And if there's no new counsel here by this Friday  
12 with a notice of appearance filed with the court, this action  
13 is going to be dismissed; because, quite frankly, the  
14 remaining claims, I see very little grounds for the two  
15 remaining claims to survive here.

16 And, then, the only issue that will remain will be  
17 the issue of the motion for sanctions. I'm going to dispense  
18 with the bundling rule, because I would like to see the  
19 defendants' papers, especially since there is a motion for  
20 sanctions, so if by this Friday I could get -- or before that  
21 if I can get a hard copy for the motions. You can file the  
22 motions on the docket. And I would appreciate that, getting  
23 copies of the motions. Anything else that the parties want to  
24 address?

25 MR. BERGER: Yes, your Honor. May I please --

Proceedings

34

1 THE COURT: Once I get notification Friday that  
2 there are counsel, I'm going to set a briefing schedule for  
3 the rest of the two remaining claims. And I, frankly, don't  
4 see that that requires 30 days to address.

5 MR. BERGER: Your Honor, may I speak. It's George  
6 Berger representing Mid-Town defendants.

7 THE COURT: Yes, Mr. Berger.

8 MR. BERGER: Your Honor, since your Honor --

9 THE COURT: Hang on a second, Mr. Berger. We've got  
10 our technical person here to the rescue.

11 MR. BERGER: Thank you. I'll wait.

12 (Pause in proceedings.)

13 THE COURT: I don't see any reason why we need to  
14 have anyone other than Mr. Berger here present, at this point.  
15 So, Mr. Berger, really you're the only person that we need, at  
16 this point. And with respect to the other gentlemen, we thank  
17 you for making yourselves available.

18 MR. BERGER: If they can hang on, then, maybe the  
19 line will get better.

20 THE COURT: Okay.

21 (Pause in proceedings.)

22 THE COURT: Can we just get Mr. Berger back on the  
23 phone.

24 MR. SHORE: Your Honor, if he's not on the phone --  
25 because he was the chairperson. We can call him right now on

Proceedings

35

1 a separate phone and see if we can call him directly on his  
2 home phone.

3 THE COURT: That might work better. Go right ahead.

4 UNIDENTIFIED SPEAKER: Your Honor, which phone  
5 should he call in?

6 THE COURT: We have to get a number.

7 MR. SHORE: I'll make sure he's off his home phone,  
8 your Honor.

9 UNIDENTIFIED SPEAKER: We're having trouble getting  
10 service here.

11 MR. SHORE: Maybe try his home phone.

12 THE CLERK: Mr. Berger.

13 MR. BERGER: Yes.

14 THE COURT: Mr. Berger, can you hear us?

15 MR. BERGER: Barely.

16 THE COURT: Okay. I don't know what's going on.  
17 We'll try to do the best we can. You wanted to discuss  
18 something.

19 MR. BERGER: Yes, your Honor. Since your Honor has  
20 now dismissed -- to claim specific performance and for a  
21 declaration of the 2002 contract, there is no basis for the  
22 notices of pendency before your Honor. And under New York  
23 State Law, you must instruct the -- you must cancel them and  
24 issue an order instructing the clerk of the Supreme Court,  
25 New York County to cancel them of record. There's no

Proceedings

36

1 discretion in this regard, because there is no longer a cause  
2 of action effecting title, or possession or use of the  
3 property pending before your Honor; and, therefore, there is  
4 no basis for the notice of pendency. That's one thing.

5 The second thing is, when you see our papers that  
6 will be filed this week, we have asked in our relief for an  
7 injunction against the plaintiffs and Mr. Pfeiffer for further  
8 litigation against the parties for this -- to the claims  
9 asserted in the Amended Complaint without the prior approval  
10 of a judge of this court. I don't know if the custom is that  
11 it's your Honor or the chief judge. I leave that to you.

12 THE COURT: That's normally up to the district. I'm  
13 sorry to interrupt you Mr. Berger --

14 MR. BERGER: This will just be the jumping off point  
15 for some other lawsuit they claim. We want you to seriously  
16 entertain that relief. We're seeking that relief in the state  
17 court on an appeal pending right now, but that would only  
18 apply to state court proceedings, so we need this similar  
19 relief in federal court proceeding. I ask your Honor to very  
20 seriously consider that as well. I hope you heard me.

21 THE COURT: I think I did. You are -- let me just  
22 repeat it. Can you hear me? I don't think he can hear me.

23 MR. BERGER: I'm sorry. I can't -- if you're  
24 talking to me, I don't hear you. I hear you now.

25 THE COURT: Okay. Can you hear me now?

Proceedings

37

1 MR. BERGER: Yes. Wait a minute. Maybe I can  
2 adjust the volume on my phone. Give me one second.

3 THE COURT: I apologize for all the technical  
4 problems.

5 MR. BERGER: Yes, I have raised the volume on my  
6 phone.

7 THE COURT: If I'm understanding you correctly, you  
8 are asking for a dismissal of the notice of lis pendens  
9 against the property in light of the dismissal of --  
10 the Court's dismissal of the charges.

11 MR. BERGER: Yes. Actually, the cancellation of the  
12 notice.

13 THE COURT: A cancellation of the notice.

14 MR. BERGER: There's two notice of pendency pending  
15 in this court, and they are dependent on the New York Law of a  
16 cause of action which effects the title, use, or possession of  
17 real property. You have now dismissed the only two causes of  
18 action that effect title, use, or possession of real property,  
19 namely the ones for specific performance. And for declaratory  
20 judgment, the contract is still in effect; and, therefore,  
21 there is no basis for any notice of pendency under New York  
22 Law, and they must be dismissed.

23 THE COURT: So that's one application. And the  
24 other you indicate that in the motions to dismiss there is  
25 also a request for an injunction against the defendants from

Proceedings

38

1 bringing any further litigation in federal court --

2 MR. BERGER: Against the plaintiffs, your Honor.

3 THE COURT: -- relating to the subject of this  
4 litigation without first getting leave of the Court, correct?

5 MR. BERGER: That's correct. It's not the  
6 defendants, it's the plaintiffs.

7 THE COURT: I mean, right against the plaintiffs.

8 MR. BERGER: I'm asking for that.

9 THE CLERK: Bring an injunction against the  
10 plaintiffs.

11 THE COURT: Right against the plaintiffs, injunction  
12 against the plaintiffs.

13 MR. BERGER: Approximate Mr. Pfeiffer.

14 THE COURT: For bringing these claims against the  
15 defendants in this court without first obtaining leave of  
16 the Court. That's normally a matter that is up to the  
17 district judge who is providing over the case at hand. So I  
18 have asked for counsel for the defendants to file their motion  
19 papers with the Court, so that I can see all of these  
20 different applications.

21 And it certainly does behoove plaintiff to actually  
22 obtain counsel, because otherwise you will be -- plaintiff  
23 will be in default with respect to the motion for sanctions  
24 and with respect to the request for an injunction. And,  
25 frankly, given the whole history of this case, it seems to me

Proceedings

39

1 that a motion against -- a motion for sanctions under Rule 11  
2 is maybe appropriate in this case. So plaintiff has been  
3 forewarned if -- on Friday I expect to get a letter,  
4 indicating that plaintiff has counsel or has not had counsel,  
5 and a notice of appeal to be filed, unless, Mr. Gross, you're  
6 staying on the case.

7 And then, at that point, I will set a motion -- a  
8 briefing schedule for the rest of the motions, to get a  
9 response to the remaining two counts, which are counts 16 and  
10 20, the motion for sanctions, and for the injunction. And  
11 the Court will enter an order -- I think that motion was  
12 pending before the magistrate judge, correct?

13 MR. GROSS: Your Honor, if I can be heard on that?  
14 I don't mean to interrupt, but for the sake of judicial  
15 resources, I spoke to my client, and in light of the decision  
16 that was rendered today, we can take steps to have those  
17 lis pendens cancelled. I believe by stipulation I can do it  
18 with Mr. Berger, rather than burdening the Court.

19 THE COURT: The lis pendens is cancelled. Plaintiff  
20 is stipulating. But, in any event, the claims have been  
21 dismissed, and there's nothing pending that should encumber  
22 the property.

23 MR. GROSS: As an administrative matter, we'll take  
24 on the burden of clearing that.

25 THE COURT: Why don't I have defense counsel file

Proceedings

40

1 any document, any judgment ordered that the defendant feels --  
2 since it's the defendant's property -- feels appropriate, for  
3 the Court to sign. Obviously, the sooner you file that, the  
4 sooner I can sign it. Okay. So I will be expecting to hear  
5 further from the parties by the end of this week. All right.  
6 Thank you all. Thank you to those who appeared by phone.

7 Mr. Berger, extend my thanks to them as well.

8 MR. BERGER: Yes, your Honor.

9 THE COURT: All right. Thank you.

10 MR. SHORE: Thank you, your Honor.

11 THE COURT: Before the parties go, Ms. Solomon, you  
12 are dismissed in this action. You are named only in those  
13 counts that I dismissed, so you are no longer in the action.

14 MR. SOLOMON: So you dismissed the action as to  
15 every count as to me, your Honor?

16 THE COURT: Correct. That does not preclude you,  
17 however, from having the motion for sanctions considered by  
18 the Court, just to be clear.

19 MR. SOLOMON: Thank you, your Honor.

20 THE COURT: As to Mr. Goebel, I think he is named in  
21 the civil rights count.

22 MS. SOLOMON: That's correct. That would be the  
23 sole remaining count.

24 THE COURT: As to him, correct.

25 MS. SOLOMON: Your Honor, could I clarify, in our



Proceedings

41

1 motion papers as well, we had made requests for injunctive  
2 relief. You will see that in the papers filed this week.

3 THE COURT: As to many of those affirmative  
4 requests, the fact that you're dismissed from the case would  
5 not preclude the Court from considering it.

6 MS. SOLOMON: Thank you very much, your Honor.

7 (Proceedings adjourned.)

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12 I certify that the foregoing is a true and correct  
13 transcription of the record from proceedings in the  
above-entitled case.

14 /s/ Nicole Canales  
Nicole Canales

March 5, 2015  
Date

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